

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 21202**

Application 31313 of      George H. and Sylvia G. Newsom  
                                 P.O. Box 76  
                                 Hyampom, CA 96046

filed on **March 28, 2002**, has been approved by the State Water Resources Control Board (State Water Board)  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

**Permittee is hereby authorized to divert and use water as follows:**

1.      Source of water

Source:

(1) Unnamed Spring

(2) Unnamed Stream

Tributary to:

(1) Unnamed Stream thence South Fork Trinity River

(2) Unnamed Stream thence South Fork Trinity River

within the County of **Trinity**

2.      Location of point of diversion

By California Coordinate System of 1927 in Zone 1	40-acre subdivision of public land survey or projection thereof	Section (Projected)*	Township	Range	Base and Meridian
<b>Direct Diversion</b> (1) North 457,446 feet and East 1,601,112 feet	NW¼ of SW¼	6	2N	7E	H
<b>Storage, Direct Diversion and Re-Diversion</b> (2) North 456,001 feet and East 1,600,394 feet	SW¼ of SW¼	6	2N	7E	H

3. Purpose of use	4. Place of use	Section (Projected)*	Township	Range	Base and Meridian	Acres
Irrigation	SE¼ of SE¼	1	2N	6E	H	1
	SW¼ of SW¼	6	2N	7E	H	1
					<b>Total</b>	<b>2</b>
Domestic	SE¼ of SE¼	1	2N	6E	H	

The place of use is shown on map filed with the State Water Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 14,400 gallons per day by direct diversion (not to exceed 8.03 acre-feet) and 0.06 acre-feet per annum by storage from April 1 to September 30 of each year. The total amount of water to be taken from the sources shall not exceed 8.09 acre-feet per water year of October 1 to September 30.  
(0000005E)
6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.  
(0000005I)
7. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2017.  
(0000009)
8. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.  
(0000022)

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.  
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the State Water Board until a license is issued.  
(0000010)
- C. Permittee shall allow representatives of the State Water Board and other parties, as may be authorized from time to time by said State Water Board, reasonable access to project works to determine compliance with the terms of this permit.  
(0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the State Water Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the State Water Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the State Water Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Board if, after notice to the permittee and an opportunity for hearing, the State Water Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the State Water Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish & G. Code, §§ 2050 - 2097) or the federal Endangered Species Act (16 U.S.C.A. §§ 1531 - 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this

permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

***This permit is issued and permittee takes it subject to the following provisions of the Water Code:***

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

**STATE WATER RESOURCES CONTROL BOARD**

  
Victoria A. Whitney  
Division Chief

Dated: **JUL 18 2007**

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

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In the Matter of Application 31313  
George H. and Sylvia G. Newsom

**ORDER WITHDRAWING CANCELLATION OF APPLICATION,  
REINSTATING APPLICATION AND  
APPROVING ISSUANCE OF PERMIT**

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SOURCE: (1) Unnamed Spring and (2) Unnamed Stream both tributary to Unnamed Stream thence  
South Fork Trinity River thence Trinity River

COUNTY: Trinity

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**WHEREAS:**

1. State Water Resources Control Board (State Water Board) Resolution No. 2002-0106 delegates the authority to act on water appropriation applications, including the authority to cancel such applications, to the Chief, Division of Water Rights.
2. George H. and Sylvia G. Newsom (Applicants) filed Application 31313 with the State Water Board, Division of Water Rights (Division) on March 28, 2002. The application requested authorization to continue to directly divert 14,400 gallons per day, not to exceed 8.03 acre-feet (af) per annum, and store 0.06 af per annum from April 1 through September 30. The combined direct diversion and storage amount were not to exceed 8.09 af per annum. The proposed purposes of use were domestic use at an existing homesite and irrigation of two acres of garden and pasture.
3. The diversion and storage had first been completed in 1978, and the application did not propose to modify or expand the existing operations, facilities, or water use.
4. On January 9, 2004, the Division published a public notice of Application 31313 and a timely protest was filed by the National Marine Fisheries Service (NMFS). NMFS subsequently withdrew the protest, on July 8, 2004, because the agency found that the steep gradient on which the diversion occurs prevents listed salmonids from accessing the area.
5. In a pre-application phone call with a fisheries biologist with the Department of Fish and Game (DFG), the DFG had identified no public trust impacts associated with the diversion. The DFG did not protest the application, or raise any public trust concerns at any point during the process.
6. The project is located on the South Fork Trinity River and is included in the California Wild and Scenic Rivers System. The Secretary for Resources Office, Wild and Scenic River Notification

Section contacted the Division on January 22, 2004, and stated that they would not submit comments on this diversion because it is from a tributary to the river, rather than the main stem.


7. No other protests alleging environmental harm or harm to other water users were filed.
8. By letter dated March 8, 2005, the Division requested, in accordance with California Water Code, section 1275, that Applicants submit, by September 8, 2005, a signed Memorandum of Understanding (MOU) by which the Applicants would hire qualified consultants to conduct a water availability analysis and prepare environmental impact assessment documents for the project in accordance with the California Environmental Quality Act (CEQA). The letter contained a warning that failure to submit the information requested within the time period provided could result in the cancellation of the application under Water Code, section 1276.
9. On March 21, 2005, Applicants submitted a letter questioning the need for additional environmental studies, because the project was "minor" and because of NMFS's decision to withdraw its protest.
10. On April 8, 2005, Division staff offered Applicants the option of submitting biological surveys that met specific guidelines by September 8, 2005, in lieu of signing the MOU. If the biological surveys showed no sensitive species present, the Division would reevaluate whether the project qualified for an exemption from CEQA review.
11. On April 13, 2007, Application 31313 was cancelled for failure to submit either the requested biological surveys or the signed MOU.
12. On May 6, 2007, the Applicants filed a petition for reconsideration stating that the required survey work had been completed, but had not been timely filed. Applicants further stated that the State Water Board had not been informed of the delay in part because of miscommunication between Applicants and their pro bono consultant.
13. On May 8, 2007, the Applicants' consultant submitted a Biological Survey Report. The report shows that there are no impacts to sensitive species associated with the project and that there is sufficient water available.
14. Since the Applicants made progress towards providing the requested information of their own accord, believed that the State Water Board had been informed of their progress, and then provided the requested information upon receipt of the cancellation, there is good cause to withdraw the cancellation of the application, and to reinstate Application 31313.
15. The water will be diverted and used without unreasonable effect upon fish, wildlife, or other instream beneficial uses.
16. The May 4, 2007 Biological Survey Report states that the unnamed stream has a flow of 30 to 50 gallons per minute (gpm). The report estimates that the diversion rate is 10 gpm (8 afa). An outflow of 10 gpm is sufficient to produce the water requested in Application 31313. There are no other diverters on the unnamed stream. Based on this information, the State Water Board has determined that there is unappropriated water available to serve Application 31313.
17. The Applicants' intended use for domestic and irrigation are beneficial uses.

18. Environmental review began on March 28, 2002. Pursuant to the provisions of CEQA, the State Water Board issued a Notice of Exemption based on an Existing Facilities Exemption, pursuant to Title 14, California Code of Regulations, section 15301. The project will not cause significant adverse impacts on any sensitive environment, will not result in significant cumulative impacts, and does not fall under any of the exceptions to categorical exemptions listed in CEQA Guidelines, section 15300.2.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. The cancellation of the application is withdrawn.
2. Application 31313 is reinstated.
3. A permit is issued for Application 31313, subject to the conditions of the attached permit.

STATE WATER RESOURCES CONTROL BOARD

  
Victoria A. Whitney, Chief  
Division of Water Rights

Dated:

**JUL 18 2007**



**Linda S. Adams**  
Secretary for  
Environmental Protection

# State Water Resources Control Board

## Division of Water Rights

1001 I Street, 14<sup>th</sup> Floor ♦ Sacramento, California 95814 ♦ 916.341.5300  
Mailing Address: P.O. Box 2000 ♦ Sacramento, California 95812-2000  
FAX: 916.341.5400 ♦ [www.waterrights.ca.gov](http://www.waterrights.ca.gov)



**Arnold Schwarzenegger**  
Governor

### **NOTICE OF EXEMPTION** **Pursuant to Section 21108** **Public Resources Code**

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<b>To:</b> Office of Planning & Research State Clearinghouse 1400 Tenth Street Sacramento, CA 95814	<b>From:</b> State Water Resources Control Board Division of Water Rights P.O. Box 2000 Sacramento, CA 95812-2000
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**PROJECT TITLE:** Application 31313

**APPLICANT:** George H. and Sylvia G. Newsom

#### **PROJECT DESCRIPTION:**

Application 31313 was filed with the State Water Resources Control Board, Division of Water Rights on March 28, 2002. The project described in Application 31313 was completed in 1978. The application requests authorization to continue to directly divert 14,400 gallons per day, not to exceed 8.03 acre-feet (af) per annum, and store 0.06 af per annum from April 1 through September 30 for domestic and irrigation purposes. The combined direct diversion and storage amount shall not exceed 8.09 af per annum. Water will be used at an existing residence and for irrigation of two acres of garden and pasture.

The National Marine Fisheries Service found that the diversion is located on a stream where no listed salmonid are known to occur due to the steep gradient.

**WATER TO BE APPROPRIATED FROM:** (1) Unnamed Spring tributary to Unnamed Stream and (2) Unnamed Stream both tributary to South Fork Trinity River thence Trinity River

#### **AMOUNT AND SEASON:**

Direct diversion of 14,400 gallons per day and storage of 0.06 af per annum, with a combined direct diversion and storage limit of 8.09 af per annum from April 1 through September 30.

#### **LOCATION OF POINT OF DIVERSION:**

(1) NW ¼ of SW ¼ and (2) SW ¼ of SW ¼, both within section 6, T2N, R7E, HB&M.

**PURPOSES OF USE:** Domestic, Irrigation.

**EXEMPT STATUS:** Environmental review began on March 28, 2002. Approval of this project will not result in construction or expansion in the facilities or water use beyond that existing on the date environmental review began. Existing Facilities Exemption, in accordance with title 14, California Code of Regulations, Section 15301, Class 1: CEQA applies only to projects which have the potential for causing a significant effect on the environment.

**REASON WHY PROJECT IS EXEMPT:**

1. The project consists of operation, repair, maintenance or minor alteration of existing diversion works and small reservoir that involves no expansion of use beyond that existing at the present time.
2. This project will not cause significant adverse impacts on any sensitive environment and will not result in significant cumulative impacts and does not fall under any other exceptions to categorical exemptions listed in CEQA Guidelines, section 15300.2.
3. There are no unresolved protests.
4. The Department of Fish and Game has determined that no conditions are necessary to protect instream beneficial uses.

Contact Person: Katherine Mrowka

Telephone: (916) 341-5363

email: kmrowka@waterboards.ca.gov

**APPROVAL OF THE ABOVE IS RECOMMENDED BY:**

Katherine Mrowka 7-13-07  
Katherine Mrowka, Chief  
Watershed Unit 3

Date

Steven Herrera 7/13/07  
Steven Herrera, Manager  
Water Rights Permitting Section

Date

APPROVED:

Victoria A. Whitney 7/17/07  
Victoria A. Whitney  
Division Chief

Date